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SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, vs. RYAN CABUTO, Defendant.	CASE NO. 08CR0070(NLS) SECOND AMENDED ORDER SETTING CONDITIONS OF PRETRIAL RELEASE: BAIL (18 U.S.C. § 3142(c))

The court hereby amends its January 17, 2008 order to conform with the record of this courts oral ruling regarding drug testing and curfew conditions. On January 17, 2008, the court held a hearing pursuant to the Bail Reform Act, 18 U.S.C. § 3142 *et seq*. on the request of Pretrial Services ("PTS") to clarify the conditions of Defendant's release that were set by this court on January 14, 2008. Specifically, Defendant had advised PTS that he is employed at the 24 Hour Fitness in La Mesa, California which is a facility with a Day Care Center on the premises such that his continued employment may not be in compliance with the condition that "he not be within 100 yards of places in which children congregate." After hearing from the AUSA, defense counsel, PTS, and defendant's mother who is the surety on his bond, the Court clarified and modified the conditions of Defendants's release as follows: **Good cause appearing,**

IT IS ORDERED that the defendant shall be released from custody subject to the condition that he: **(a) make all of his court appearances, (b) not commit a federal, state, or local crime during the period of release, and comply with the additional conditions itemized listed below in accordance with 18 U.S.C. § 3142(c)(1):**

STANDARD CONDITIONS:

1. Restrict travel to the Southern District of California. Do not enter Mexico.
2. Report for supervision to U.S. Pretrial Services ("PTS").
3. Not possess or use any narcotic drug or other controlled substance, (defined in 21 U.S.C. § 802), without a lawful medical prescription;
4. Not possess any firearm, dangerous weapon or other destructive device during the pendency of the case;
5. Read, or have explained, and acknowledge understanding of the Advice of Penalties and Sanctions Form;
6. Provide a current residence address and phone number prior to release and keep it current while the case is pending.

ADDITIONAL CONDITIONS:

1. Execute a personal appearance bond in the amount of $50,000 secured by a trust deed to the United States of America on Defendant's mother's home as well as the signatures of Defendant and his mother. Examination of sureties prior to release.
2. Submit to psychiatric/psychological counseling as specified by PTS, such counseling to be with a counselor who has experience in treating sexual offenders. The defendant must waive confidentiality so that Pretrial Services can contact his counselor.
3. Participate in and pay for active Global Positioning System (GPS) satellite monitoring.
4. Actively maintain or seek full-time employment, schooling or a combination of the two as approved by PTS.
5. Defendant may not engage in any paid occupation or volunteer service that exposes him either directly or indirectly to children under the age of 18, unless approved in advance by PTS and the Court.
6. No contact with children at the Day Care Facility at Defendant's present place of employment.

Defendant shall submit to a PTS interview with his employer at which time PTS will explain to the employer the restrictions of this bond as it pertains to Defendant's employment.

7. No contact with children under the age of 18 unless accompanied and supervised by an adult approved in advance by PTS. Defendant shall report within eight (8) hours to PTS any unauthorized contact with any child under the age of 18.

8. Submit to a post-release interview by PTS at which time defendant shall provide PTS with accurate information about his entire computer system (hardware/software); all passwords used by defendant; his Internet Service Provider(s) and all additional computer hardware and software to which defendant has access (e.g.laptop computers, handheld devices, employer(s) computers).

9. Submit to PTS examination and monitoring of defendant's computer use at his place of residence and employment at a reasonable time and in a reasonable manner (no more than two times per week) to insure compliance with this court's computer use restrictions.

Submit to installation of monitoring software on defendant's personal computer as determined by PTS.

10. Defendant shall not access any pornographic web site via any "on line" computer service or via any other device with Internet capability (e.g Wii or Xbox, IPODs, cellphones etc.) at any location at any time. This includes any Internet Service Provider, bulletin board system or other public or private computer network.

11. Surrender passport to PTS.

12. Remain at home residence between the hours of 11:00 p.m. and 6:00 a.m.

13. Other than as noted in para. 6 above, Defendant shall not be within 100 yards of places where children congregate (schools, parks, playgrounds, video arcades, swimming pools).

14. Submit to drug testing not to exceed two times per week or at the discretion of the PTS officer.

DATED: 1-24-08

[signature]

Hon. Nita L. Stormes
U.S. Magistrate Judge